

20A-4-101. Counting paper ballots during election day.

(1) Each county legislative body or municipal legislative body that has voting precincts that use paper ballots and each poll worker in those voting precincts shall comply with the requirements of this section.

(2) (a) Each county legislative body or municipal legislative body shall provide:

(i) two sets of ballot boxes for all voting precincts where both receiving and counting judges have been appointed; and

(ii) a counting room for the use of the poll workers counting the ballots during the day.

(b) At any election in any voting precinct in which both receiving and counting judges have been appointed, when at least 20 votes have been cast, the receiving judges shall:

(i) close the first ballot box and deliver it to the counting judges; and

(ii) prepare and use another ballot box to receive voted ballots.

(c) Upon receipt of the ballot box, the counting judges shall:

(i) take the ballot box to the counting room;

(ii) count the votes on the regular ballots in the ballot box;

(iii) place the provisional ballot envelopes in the envelope or container provided for them for return to the election officer; and

(iv) when they have finished counting the votes in the ballot box, return the emptied box to the receiving judges.

(d) (i) During the course of election day, whenever there are at least 20 ballots contained in a ballot box, the receiving judges shall deliver that ballot box to the counting judges for counting; and

(ii) the counting judges shall immediately count the regular ballots and segregate the provisional ballots contained in that box.

(e) The counting judges shall continue to exchange the ballot boxes and count ballots until the polls close.

(3) Counting poll watchers appointed as provided in Section 20A-3-201 may observe the count.

(4) The counting judges shall apply the standards and requirements of Section 20A-4-105 to resolve any questions that arise as they count the ballots.

Amended by Chapter 225, 2008 General Session

20A-4-102. Counting paper ballots after the polls close.

(1) (a) Except as provided in Subsection (2), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.

(b) The election judges shall apply the standards and requirements of Section 20A-4-105 to resolve any questions that arise as they count the ballots.

(2) (a) First, the election judges shall count the number of ballots in the ballot box.

(b) (i) If there are more ballots in the ballot box than there are names entered in the pollbook, the judges shall examine the official endorsements on the ballots.

(ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the

proper official endorsement, the judges shall put those ballots in an excess ballot file and not count them.

(c) (i) If, after examining the official endorsements, there are still more ballots in the ballot box than there are names entered in the pollbook, the judges shall place the remaining ballots back in the ballot box.

(ii) One of the judges, without looking, shall draw a number of ballots equal to the excess from the ballot box.

(iii) The judges shall put those excess ballots into the excess ballot envelope and not count them.

(d) When the ballots in the ballot box equal the number of names entered in the pollbook, the judges shall count the votes.

(3) The judges shall:

(a) place all unused ballots in the envelope or container provided for return to the county clerk or city recorder; and

(b) seal that envelope or container.

(4) The judges shall:

(a) place all of the provisional ballot envelopes in the envelope provided for them for return to the election officer; and

(b) seal that envelope or container.

(5) (a) In counting the votes, the election judges shall read and count each ballot separately.

(b) In regular primary elections the judges shall:

(i) count the number of ballots cast for each party;

(ii) place the ballots cast for each party in separate piles; and

(iii) count all the ballots for one party before beginning to count the ballots cast for other parties.

(6) (a) In all elections, the counting judges shall:

(i) count one vote for each candidate designated by the marks in the squares next to the candidate's name;

(ii) count one vote for each candidate on the ticket beneath a marked circle, excluding any candidate for an office for which a vote has been cast for a candidate for the same office upon another ticket by the placing of a mark in the square opposite the name of that candidate on the other ticket;

(iii) count each vote for each write-in candidate who has qualified by filing a declaration of candidacy under Section 20A-9-601;

(iv) read every name marked on the ballot and mark every name upon the tally sheets before another ballot is counted;

(v) evaluate each ballot and each vote based on the standards and requirements of Section 20A-4-105;

(vi) write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit it in the spoiled ballot envelope; and

(vii) read, count, and record upon the tally sheets the votes that each candidate and ballot proposition received from all ballots, except excess or spoiled ballots.

(b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or persons clearly not eligible to qualify for office.

(c) The judges shall certify to the accuracy and completeness of the tally list in

the space provided on the tally list.

(d) When the judges have counted all of the voted ballots, they shall record the results on the total votes cast form.

(7) Only election judges and counting poll watchers may be present at the place where counting is conducted until the count is completed.

Amended by Chapter 177, 2002 General Session

20A-4-103. Preparing ballot sheets for the counting center.

(1) (a) In voting precincts using ballot sheets, as soon as the polls have been closed and the last qualified voter has voted, the poll workers shall prepare the ballot sheets for delivery to the counting center as provided in this section.

(b) The poll workers, election officers, and other persons may not manually count any votes before delivering the ballots to the counting center.

(2) The poll workers shall:

(a) place all of the provisional ballot envelopes in the envelope or container provided for them for return to the counting center; and

(b) seal that envelope or container.

(3) (a) The poll workers shall check each secrecy envelope to see if either contains any write-in votes.

(b) If a secrecy envelope does not contain any write-in votes, the poll workers shall remove the ballot sheet from the secrecy envelope.

(c) If a secrecy envelope contains any write-in votes, the poll workers may not separate the ballot sheet from the secrecy envelope.

(4) The poll workers shall place:

(a) the voted ballot sheets and one copy of the statement of disposition of ballots in the transfer case;

(b) the other copy of the statement of disposition of ballots, the pollbook, any unprocessed absentee ballots, the poll workers' pay vouchers, the official register, and the spoiled ballot envelope in the carrier envelope provided; and

(c) the other election materials in the election supply box.

Amended by Chapter 326, 2006 General Session

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballot sheets using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall publish public notice of the time and place of the test at least 48 hours before the test in one or more daily or weekly newspapers of general circulation published in the county, municipality, or jurisdiction where the equipment is used.

(c) The election officer shall conduct the test by processing a preaudited group of ballot sheets.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are

recorded on the ballot sheets;

(ii) for each office, one or more ballot sheets have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or his designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot, ballot sheet, or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(d) (i) Counting poll watchers appointed as provided in Section 20A-3-201 may observe the testing of equipment and actual counting of the ballot sheets.

(ii) Those counting poll watchers may make independent tests of the equipment before or after the vote count as long as the testing does not interfere in any way with the official tabulation of the ballot sheets.

(3) If any ballot sheet is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall:

(a) cause a true duplicate copy of the ballot sheet to be made with an identifying serial number;

(b) substitute the duplicate for the damaged ballot sheet;

(c) label the duplicate ballot card "duplicate"; and

(d) record the duplicate ballot sheet's serial number on the damaged or defective ballot sheet.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(6) (a) The election officer or his designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(7) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(8) If for any reason it becomes impracticable to count all or a part of the ballot sheets with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(9) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Amended by Chapter 326, 2006 General Session

20A-4-105. Standards and requirements for evaluating voter's ballot choices.

(1) Each person counting ballots shall apply the standards and requirements of this section to resolve any questions that arise as ballots are counted.

(2) Except as provided in Subsection (11), if a voter marks more names than there are persons to be elected to an office, or if for any reason it is impossible to determine the choice of any voter for any office to be filled, the counter may not count that voter's ballot for that office.

(3) The counter shall count a defective or incomplete mark on any paper ballot if:

(a) it is in the proper place; and

(b) there is no other mark or cross on the paper ballot indicating the voter's intent to vote other than as indicated by the defective mark.

(4) (a) When the voter has marked the ballot so that it appears that the voter has voted more than one straight ticket, the election judges may not count any votes for party candidates.

(b) The election judges shall count the remainder of the ballot if it is voted correctly.

(5) A counter may not reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot or group of ballots show an intent by a person or group to mark their ballots so that their ballots can be identified.

(6) (a) In counting the ballots, the counters shall give full consideration to the intent of the voter.

(b) The counters may not invalidate a ballot because of mechanical and technical defects in voting or failure on the part of the voter to follow strictly the rules for balloting required by Chapter 3.

(7) The counters may not reject a ballot because of any error in:

- (a) stamping or writing any official endorsement; or
- (b) delivering the wrong ballots to any polling place.
- (8) The counter may not count any paper ballot that does not have the official endorsement by an election officer.
- (9) The counter may not count any ballot proposition vote or candidate vote for which the voter is not "legally entitled to vote" as used in Section 20A-4-107.
- (10) If the counter discovers that the name of a candidate voted for is misspelled or that the initial letters of a candidate's given name are transposed or omitted in part or altogether, the counter shall count the voter's vote for that candidate if it is apparent that the voter intended to vote for that candidate.
- (11) The counter shall count a vote for the president and the vice president of any political party as a vote for the presidential electors selected by the political party.
- (12) In counting the valid write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the judges shall count the valid write-in vote as being the obvious intent of the voter.

Amended by Chapter 390, 2013 General Session

20A-4-106. Paper ballots -- Sealing.

- (1) (a) (i) At all elections using paper ballots, as soon as the counting judges have read and tallied the ballots, they shall string the counted, excess, and spoiled ballots on separate strings.
- (ii) After the ballots are strung, they may not be examined by anyone, except when examined during a recount conducted under the authority of Section 20A-4-401.
- (b) The judges shall carefully seal all of the strung ballots in a strong envelope.
- (2) (a) For regular primary elections, after all the ballots have been counted, certified to, and strung by the judges, they shall seal the ballots cast for each of the parties in separate envelopes.
- (b) The judges shall:
 - (i) seal each of the envelopes containing the votes of each of the political parties in one large envelope; and
 - (ii) return that envelope to the county clerk.
- (c) The judges shall:
 - (i) destroy the ballots in the blank ballot box; or
 - (ii) if directed to do so by the election officer, return them to the election officer for destruction.
- (3) As soon as the judges have counted all the votes and sealed the ballots they shall sign and certify the pollbooks.
- (4) (a) The judges, before they adjourn, shall:
 - (i) enclose and seal the official register, the posting book, the pollbook, the ballot disposition form, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, and any unprocessed absentee ballots in a strong envelope or pouch;
 - (ii) ensure that all counted ballots, all excess ballots, and all spoiled ballots have been strung and placed in a separate envelope or pouch as required by Subsection (1);
 - (iii) place all unused ballots, all spoiled ballots, one tally list, and a copy of the

ballot disposition form in a separate envelope or pouch;

(iv) place all provisional ballots in a separate envelope or pouch; and

(v) place the total votes cast form and the judges' vouchers requesting compensation for services rendered in a separate pouch.

(b) Before enclosing the official register in the envelope or pouch, the election judges shall certify it substantially as follows:

"We, the undersigned, judges of election for precinct _____, (jurisdiction) _____, Utah, certify that the required entries have been made for the election held _____ (month\day\year), including:

a list of the ballot numbers for each voter;

the voters' signatures, except where a judge has signed for the absentee voters;

a list of information surrounding a voter who is challenged, including any affidavits; and

a notation for each time a voter was assisted with a ballot."

(5) Each judge shall:

(a) write his name across the seal of each envelope or pouch;

(b) mark on the exterior of the envelope or pouch:

(i) the word "ballots" or "returns" or "unused ballots," or "provisional ballots" or other words plainly indicating the contents of the packages; and

(ii) the number of the voting precinct.

Amended by Chapter 251, 2012 General Session

20A-4-107. Review and disposition of provisional ballot envelopes.

(1) As used in this section, a person is "legally entitled to vote" if:

(a) the person:

(i) is registered to vote in the state;

(ii) votes the ballot for the voting precinct in which the person resides; and

(iii) provides valid voter identification to the poll worker;

(b) the person:

(i) is registered to vote in the state;

(ii) (A) provided valid voter identification to the poll worker; or

(B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the person's identity and residence through some other means; and

(iii) did not vote in the person's precinct of residence, but the ballot that the person voted was from the person's county of residence and includes one or more candidates or ballot propositions on the ballot voted in the person's precinct of residence; or

(c) the person:

(i) is registered to vote in the state;

(ii) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register; and

(iii) (A) the county clerk verifies the person's identity and residence through

some other means as reliable as photo identification; or

(B) the person provides valid voter identification to the county clerk or an election officer who is administering the election by the close of normal office hours on Monday after the date of the election.

(2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review the affirmation on the face of each provisional ballot envelope and determine if the person signing the affirmation is:

(i) registered to vote in this state; and

(ii) legally entitled to vote:

(A) the ballot that the person voted; or

(B) if the ballot is from the person's county of residence, for at least one ballot proposition or candidate on the ballot that the person voted.

(b) Except as provided in Subsection 20A-4-108(10), if the election officer determines that the person is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the person voted, the election officer shall retain the ballot envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.

(c) If the election officer determines that the person is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on the ballot that the person voted, the election officer shall remove the ballot from the provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass.

(d) The election officer may not count, or allow to be counted a provisional ballot unless the person's identity and residence is established by a preponderance of the evidence.

(3) If the election officer determines that the person is registered to vote in this state, or if the voter is, in accordance with the pilot project, registered to vote under Subsection 20A-4-108(10), the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot envelope.

(4) Except as provided in Subsection 20A-4-108(12), if the election officer determines that the person is not registered to vote in this state and the information on the provisional ballot envelope is complete, the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(5) Notwithstanding any provision of this section, the election officer shall remove the ballot from a provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass, if:

(a) (i) the election officer determines, in accordance with the provisions of this section, that the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than eight days before the election;

(ii) eight or more days before the election, the individual who cast the provisional

ballot:

- (A) completed and signed the voter registration; and
- (B) provided the voter registration to another person to file;
- (iii) the late filing was made due to the person described in Subsection (5)(a)(ii)(B) filing the voter registration less than eight days before the election; and
- (iv) the election officer receives the voter registration no later than one day before the day of the election; or
- (b) the provisional ballot is cast on or before election day in a county or municipality that is approved by the lieutenant governor to participate in the pilot project and the provisional ballot is not otherwise prohibited from being counted under the provisions of this chapter.

Amended by Chapter 98, 2014 General Session

Amended by Chapter 231, 2014 General Session

Amended by Chapter 231, 2014 General Session, (Coordination Clause)

20A-4-108. Election day voter registration pilot project.

(1) There is created, beginning on June 1, 2014, and ending on January 1, 2017, an election day voter registration pilot project, as described in this section.

(2) A county may participate in the pilot project if the county clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

- (a) the name of the county;
- (b) a request that the county be permitted to participate in the pilot project;
- (c) an estimate of the extent to which election day voter registration may increase voter participation; and
- (d) any other reasons that the county desires to participate in the project.

(3) A municipality may participate in the pilot project for a municipal election if the municipal clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

- (a) the name of the municipality;
- (b) a request that the municipality be permitted to participate in the pilot project;
- (c) an estimate of the extent to which election day voter registration may increase voter participation; and
- (d) any other reasons that the municipality desires to participate in the project.

(4) Within 10 business days after the day on which the lieutenant governor receives an application described in Subsection (2) or (3), the lieutenant governor shall approve the application if:

- (a) the application complies with the requirements described in Subsection (2) or (3), as applicable; and
- (b) the lieutenant governor determines, based on the information contained in the application, that implementing the pilot project in the county or municipality:
 - (i) will yield valuable information to determine whether election day voter registration should be implemented on a permanent, statewide basis; and
 - (ii) will not adversely affect the rights of voters or candidates.

(5) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-201(3)(b)(ii), a registration

form is submitted to the county clerk on the date of the election or during the seven calendar days before an election, the county clerk shall:

(a) if the person desires to vote in the pending election, inform the person that the person must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the person does not desire to vote in the pending election:

(i) accept a registration form from the person if, on the date of the election, the person will be legally qualified and entitled to vote in a voting precinct in the county or municipality; and

(ii) inform the person that the person will be registered to vote but may not vote in the pending election because the person registered too late and chose not to register and vote as described in Subsection (5)(a).

(6) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-202(3)(a), the county clerk receives a correctly completed by-mail voter registration form that is postmarked after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant for the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(7) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-204(5)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(8) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-205(7)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional

ballot in accordance with Subsection (10).

(9) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-206(8)(c), an individual applies to register under this section during the six calendar days before an election, the county clerk shall:

(a) if the individual desires to vote in the pending election, inform the individual that the individual must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the individual does not desire to vote in the pending election:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late and chose not to register and vote as described in Subsection (9)(a).

(10) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project:

(a) the election officer shall take the action described in Subsection (10)(b) in relation to a provisional ballot if the election officer determines that:

(i) the person who voted the ballot is not registered to vote, but is otherwise legally entitled to vote the ballot;

(ii) the ballot that the person voted is identical to the ballot for the precinct in which the person resides;

(iii) the information on the ballot is complete; and

(iv) the person provided valid voter identification and proof of residence to the poll worker;

(b) if a provisional ballot and the person who voted the provisional ballot comply with the requirements described in Subsection (10)(a), the election officer shall:

(i) consider the provisional ballot a voter registration form;

(ii) place the ballot with the absentee ballots, to be counted with those ballots at the canvass; and

(iii) as soon as reasonably possible, register the person to vote; and

(c) except as provided in Subsection (11), the election officer shall retain a provisional ballot envelope, unopened, for the period specified in Section 20A-4-202, if the election officer determines that the person who voted the ballot:

(i) (A) is not registered to vote in this state; and

(B) is not eligible for registration under Subsection (10); or

(ii) is not legally entitled to vote the ballot that the person voted.

(11) Subsection (10)(c) does not apply if a court orders the election officer to produce or count the provisional ballot.

(12) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-4-107(4), the election officer determines that the person is not registered to vote in this state, that the information on the provisional ballot envelope is complete, and that the provisional ballot and the person who voted the provisional ballot do not comply with the requirements described in Subsection (10)(a), the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the

person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county;
or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(13) (a) The county clerk of a county that is approved to participate in the pilot project, and the municipal clerk of a municipality that is approved to participate in the pilot project, shall provide training for the poll workers of the county or municipality on administering the pilot program.

(b) The lieutenant governor shall, for a county or municipality that is approved to participate in the pilot project, provide information relating to the pilot project in accordance with the provisions of Subsection 67-1a-2(2)(a)(iv).

(14) The lieutenant governor and each county and municipality that is approved by the lieutenant governor to participate in the pilot project shall:

(a) report to the Government Operations Interim Committee, on or before October 31 of each year that the pilot project is in effect, regarding:

(i) the implementation of the pilot project;
(ii) the number of ballots cast by voters who registered on election day;
(iii) any difficulties resulting from the pilot project; and
(iv) whether, in the opinion of the lieutenant governor, the county, or the municipality, the state would benefit from implementing election day voter registration permanently and on a statewide basis; and

(b) on or before December 31, 2016, report to the Legislative Management Committee regarding the matters described in Subsection (14)(a).

(15) During the 2016 interim, the Government Operations Interim Committee shall study and make a recommendation to the Legislature regarding whether to implement statewide election day voter registration on a permanent, statewide basis.

Enacted by Chapter 231, 2014 General Session

Amended by Chapter 231, 2014 General Session, (Coordination Clause)

20A-4-201. Delivery of election returns.

(1) One poll worker shall deliver the ballot box, the lock, and the key to:

(a) the election officer; or

(b) the location directed by the election officer.

(2) (a) Before they adjourn, the poll workers shall choose one or more of their number to deliver the election returns to the election officer.

(b) That poll worker or those poll workers shall:

(i) deliver the unopened envelopes or pouches to the election officer or counting center immediately but no later than 24 hours after the polls close; or

(ii) if the polling place is 15 miles or more from the county seat, mail the election returns to the election officer by registered mail from the post office most convenient to the polling place within 24 hours after the polls close.

(3) The election officer shall pay each poll worker reasonable compensation for travel that is necessary to deliver the election returns and to return to the polling place.

(4) The requirements of this section do not prohibit transmission of the unofficial

vote count to the counting center via electronic means, provided that reasonable security measures are taken to preserve the integrity and privacy of the transmission.

Amended by Chapter 297, 2011 General Session

20A-4-202. Election officers -- Disposition of ballots -- Release of number of provisional ballots cast.

(1) (a) Upon receipt of the election returns from a poll worker, the election officer shall:

- (i) ensure that the poll worker has provided all of the ballots and election returns;
 - (ii) inspect the ballots and election returns to ensure that they are sealed;
 - (iii) (A) for paper ballots, deposit and lock the ballots and election returns in a safe and secure place; or
 - (B) for punch card ballots:
 - (I) count the ballots; and
 - (II) deposit and lock the ballots and election returns in a safe and secure place;
- and

(iv) for bond elections, provide a copy of the election results to the board of canvassers of the local political subdivision that called the bond election.

(b) Inspecting poll watchers appointed as provided in Section 20A-3-201 may be present and observe the election officer's receipt, inspection, and deposit of the ballots and election returns.

(2) Each election officer shall:

(a) no later than 5 p.m. on the day after the date of the election, determine the number of provisional ballots cast within the election officer's jurisdiction and make that number available to the public;

(b) preserve ballots for 22 months after the election or until the time has expired during which the ballots could be used in an election contest;

(c) package and seal a true copy of the ballot label used in each voting precinct;

(d) preserve all other official election returns for at least 22 months after an election; and

(e) after that time, destroy them without opening or examining them.

(3) (a) The election officer shall package and retain all tabulating cards and other materials used in the programming of the automatic tabulating equipment.

(b) The election officer:

- (i) may access these tabulating cards and other materials;
- (ii) may make copies of these materials and make changes to the copies;
- (iii) may not alter or make changes to the materials themselves; and
- (iv) within 22 months after the election in which they were used, may dispose of those materials or retain them.

(4) (a) If an election contest is begun within 12 months, the election officer shall:

(i) keep the ballots and election returns unopened and unaltered until the contest is complete; or

(ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

(b) When all election contests arising from an election are complete, the election

officer shall either:

(i) retain the ballots and election returns until the time for preserving them under this section has run; or

(ii) destroy the ballots and election returns remaining in his custody without opening or examining them if the time for preserving them under this section has run.

Amended by Chapter 75, 2007 General Session

Amended by Chapter 97, 2007 General Session

20A-4-301. Board of canvassers.

(1) (a) Each county legislative body is the board of county canvassers for:

(i) the county; and

(ii) each local district whose election is conducted by the county if:

(A) the election relates to the creation of the local district;

(B) the county legislative body serves as the governing body of the local district;

or

(C) there is no duly constituted governing body of the local district.

(b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at a date and time determined by the county clerk that is no sooner than seven days after the election and no later than 14 days after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:

(i) the county treasurer;

(ii) the county assessor; or

(iii) the county sheriff.

(d) Attendance of the number of persons equal to a simple majority of the county legislative body, but not less than three persons, shall constitute a quorum for conducting the canvass.

(e) The county clerk is the clerk of the board of county canvassers.

(2) (a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.

(b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body:

(i) for canvassing of returns from a municipal general election, no sooner than seven days after the election and no later than 14 days after the election; or

(ii) for canvassing of returns from a municipal primary election, no sooner than seven days after the election and no later than 14 days after the election.

(c) Attendance of a simple majority of the municipal legislative body shall constitute a quorum for conducting the canvass.

(3) (a) The legislative body of the entity authorizing a bond election is the board of canvassers for each bond election.

(b) The board of canvassers for the bond election shall comply with the canvassing procedures and requirements of Section 11-14-207.

(c) Attendance of a simple majority of the legislative body of the entity

authorizing a bond election shall constitute a quorum for conducting the canvass.

Amended by Chapter 377, 2014 General Session

20A-4-302. Duties of the board of canvassers -- Receiving returns.

(1) If the election returns from each voting precinct in which polls were opened have been received at the time the board of canvassers convenes, the board of canvassers shall canvass the election returns as provided in this part.

(2) If all of the election returns have not been received, the board shall postpone the canvass from day to day, Sundays and legal holidays excepted, until:

- (a) all of the election returns are received; or
- (b) the board has postponed the canvass seven times.

(3) (a) If the election officer has not received the election returns from any voting precinct within seven days after the election, the election officer shall send a messenger to the judges to obtain the missing election returns.

(b) The messenger shall obtain the election returns from the judges and return the election returns to the election officer.

(c) The election officer shall pay the messenger 10 cents per mile for the distance necessarily traveled.

(4) If the board determines that election returns were not received from a voting precinct because the polls did not open in that precinct, the board shall:

- (a) sign a certificate attesting to that fact; and
- (b) file the certificate with the election officer.

Enacted by Chapter 1, 1993 General Session

20A-4-303. Duties of the board of canvassers -- Canvassing the returns.

(1) (a) The board of canvassers shall canvass the election returns by publicly opening the returns and determining from them the votes of each voting precinct for:

- (i) each person voted for; and
- (ii) for and against each ballot proposition voted upon at the election.

(b) The board of canvassers shall, once having begun the canvass, continue until it is completed.

(2) In canvassing returns, the board of canvassers may not:

(a) reject any election returns if the board can determine the number of votes cast for each person from it;

(b) reject any election returns if the election returns:

(i) do not show who administered the oath to the judges of election;

(ii) show that the election judges failed to fill out all the certificates in the pollbooks; or

(iii) show that the election judges failed to do or perform any other act in preparing the returns that is not essential to determine for whom the votes were cast; or

(c) reject any returns from any voting precinct that do not conform with the requirements for making, certifying, and returning the returns if those returns are sufficiently explicit to enable the board of canvassers to determine the number of votes cast for each person and for and against each ballot proposition.

(3) (a) If it clearly appears to the election officer and board of canvassers that certain matters are omitted or that clerical mistakes exist in election returns received, they shall transmit the election returns to the election judges for correction.

(b) Upon receipt of the election returns for correction from the board of canvassers, the election judges shall correct the election returns as required by the facts.

(c) The clerk and the board of canvassers may adjourn from day to day to await receipt of corrected election material.

(4) If a recount is conducted as authorized by Section 20A-4-401, the board of canvassers shall canvass the results of that recount as provided in this section and Section 20A-4-401.

Amended by Chapter 133, 2002 General Session

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) (a) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(i) the total number of votes cast in the board's jurisdiction;

(ii) the names of each candidate whose name appeared on the ballot;

(iii) the title of each ballot proposition that appeared on the ballot;

(iv) each office that appeared on the ballot;

(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;

(vi) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(vii) the number of ballots that were rejected; and

(viii) a statement certifying that the information contained in the report is

accurate.

- (b) The election officer and the board of canvassers shall:
 - (i) review the report to ensure that it is correct; and
 - (ii) sign the report.
- (c) The election officer shall:
 - (i) record or file the certified report in a book kept for that purpose;
 - (ii) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;
 - (iii) publish a copy of the certified report:
 - (A) in one or more conspicuous places within the jurisdiction;
 - (B) in a conspicuous place on the county's website; and
 - (C) in a newspaper with general circulation in the board's jurisdiction; and
 - (iv) file a copy of the certified report with the lieutenant governor.
- (3) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:
 - (a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and
 - (b) transmit it by registered mail to the lieutenant governor.
- (4) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.
- (5) In regular primary elections and in the Western States Presidential Primary, the board shall transmit to the lieutenant governor:
 - (a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor:
 - (i) not later than the second Tuesday after the primary election for the regular primary election; and
 - (ii) not later than the Tuesday following the election for the Western States Presidential Primary; and
 - (b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Amended by Chapter 309, 2012 General Session

20A-4-305. Delivery of checked official register to county clerk after canvass.

Within 10 days after the canvass of a November municipal election, local district election, bond election, or special election, the clerk or recorder shall transmit the checked official register to the county clerk.

Amended by Chapter 228, 2008 General Session

20A-4-306. Statewide canvass.

- (1) (a) The state board of canvassers shall convene:

- (i) on the fourth Monday of November, at noon; or
- (ii) at noon on the day following the receipt by the lieutenant governor of the last of the returns of a statewide special election.

(b) The state auditor, the state treasurer, and the attorney general are the state board of canvassers.

(c) Attendance of all members of the state board of canvassers shall be required to constitute a quorum for conducting the canvass.

(2) (a) The state board of canvassers shall:

- (i) meet in the lieutenant governor's office; and

- (ii) compute and determine the vote for officers and for and against any ballot propositions voted upon by the voters of the entire state or of two or more counties.

(b) The lieutenant governor, as secretary of the board shall file a report in his office that details:

- (i) for each statewide officer and ballot proposition:

- (A) the name of the statewide office or ballot proposition that appeared on the ballot;

- (B) the candidates for each statewide office whose names appeared on the ballot, plus any recorded write-in candidates;

- (C) the number of votes from each county cast for each candidate and for and against each ballot proposition;

- (D) the total number of votes cast statewide for each candidate and for and against each ballot proposition; and

- (E) the total number of votes cast statewide; and

- (ii) for each officer or ballot proposition voted on in two or more counties:

- (A) the name of each of those offices and ballot propositions that appeared on the ballot;

- (B) the candidates for those offices, plus any recorded write-in candidates;

- (C) the number of votes from each county cast for each candidate and for and against each ballot proposition; and

- (D) the total number of votes cast for each candidate and for and against each ballot proposition.

(c) The lieutenant governor shall:

- (i) prepare certificates of election for:

- (A) each successful candidate; and

- (B) each of the presidential electors of the candidate for president who received a majority of the votes;

- (ii) authenticate each certificate with his seal; and

- (iii) deliver a certificate of election to:

- (A) each candidate who had the highest number of votes for each office; and

- (B) each of the presidential electors of the candidate for president who received a majority of the votes.

(3) If the lieutenant governor has not received election returns from all counties on the fifth day before the day designated for the meeting of the state board of canvassers, the lieutenant governor shall:

- (a) send a messenger to the clerk of the board of county canvassers of the delinquent county;

- (b) instruct the messenger to demand a certified copy of the board of canvasser's report required by Section 20A-4-304 from the clerk; and
- (c) pay the messenger the per diem provided by law as compensation.
- (4) The state board of canvassers may not withhold the declaration of the result or any certificate of election because of any defect or informality in the returns of any election if the board can determine from the returns, with reasonable certainty, what office is intended and who is elected to it.
- (5) (a) At noon on the fourth Monday after the regular primary election, the lieutenant governor shall:
 - (i) canvass the returns for all multicounty candidates required to file with the office of the lieutenant governor; and
 - (ii) publish and file the results of the canvass in the lieutenant governor's office.
- (b) Not later than the August 1 after the primary election, the lieutenant governor shall certify the results of:
 - (i) the primary canvass, except for the office of President of the United States, to the county clerks; and
 - (ii) the primary canvass for the office of President of the United States to each registered political party that participated in the primary.
- (6) (a) At noon on the day that falls seven days after the last day on which a county canvass may occur under Section 20A-4-301 for the Western States Presidential Primary election, the lieutenant governor shall:
 - (i) canvass the returns; and
 - (ii) publish and file the results of the canvass in the lieutenant governor's office.
- (b) The lieutenant governor shall certify the results of the Western States Presidential Primary canvass to each registered political party that participated in the primary not later than the April 15 after the primary election.

Amended by Chapter 2, 2011 Special Session 3

20A-4-401. Recounts -- Procedure.

- (1) (a) Except as provided in Subsection (1)(b), for a race between candidates, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is equal to or less than .25% of the total number of votes cast for all candidates in the race, that losing candidate may file a request for a recount in accordance with Subsection (1)(c).
- (b) For a race between candidates where the total of all votes cast in the race is 400 or less, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is one vote, that losing candidate may file a request for a recount in accordance with Subsection (1)(c).
- (c) A candidate who files a request for a recount under Subsection (1)(a) or (b) shall file the request:
 - (i) for a municipal primary election, with the municipal clerk, within three days after the canvass; or
 - (ii) for all other elections, within seven days after the canvass with:
 - (A) the municipal clerk, if the election is a municipal general election;
 - (B) the local district clerk, if the election is a local district election;

- (C) the county clerk, for races voted on entirely within a single county; or
- (D) the lieutenant governor, for statewide races and multicounty races.
- (d) The election officer shall:
 - (i) supervise the recount;
 - (ii) recount all ballots cast for that race;
 - (iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part 3, Absentee Voting;
 - (iv) for a race where only one candidate may win, declare elected the candidate who receives the highest number of votes on the recount; and
 - (v) for a race where multiple candidates may win, declare elected the applicable number of candidates who receive the highest number of votes on the recount.
- (2) (a) Except as provided in Subsection (2)(b), for a ballot proposition or a bond proposition, if the proposition passes or fails by a margin that is equal to or less than .25% of the total votes cast for or against the proposition, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount within seven days of the canvass with the person described in Subsection (2)(c).
- (b) For a ballot proposition or a bond proposition where the total of all votes cast for or against the proposition is 400 or less, if the difference between the number of votes cast for the proposition and the number of votes cast against the proposition is one vote, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount within seven days of the canvass with the person described in Subsection (2)(c).
- (c) The 10 voters who file a request for a recount under Subsection (2)(a) or (b) shall file the request with:
 - (i) the municipal clerk, if the election is a municipal election;
 - (ii) the local district clerk, if the election is a local district election;
 - (iii) the county clerk, for propositions voted on entirely within a single county; or
 - (iv) the lieutenant governor, for statewide propositions and multicounty propositions.
- (d) The election officer shall:
 - (i) supervise the recount;
 - (ii) recount all ballots cast for that ballot proposition or bond proposition;
 - (iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part 3, Absentee Voting; and
 - (iv) declare the ballot proposition or bond proposition to have "passed" or "failed" based upon the results of the recount.
- (e) Proponents and opponents of the ballot proposition or bond proposition may designate representatives to witness the recount.
- (f) The voters requesting the recount shall pay the costs of the recount.
- (3) Costs incurred by recount under Subsection (1) may not be assessed against the person requesting the recount.
- (4) (a) Upon completion of the recount, the election officer shall immediately convene the board of canvassers.
- (b) The board of canvassers shall:
 - (i) canvass the election returns for the race or proposition that was the subject of the recount; and

(ii) with the assistance of the election officer, prepare and sign the report required by Section 20A-4-304 or Section 20A-4-306.

(c) If the recount is for a statewide or multicounty race or for a statewide proposition, the board of county canvassers shall prepare and transmit a separate report to the lieutenant governor as required by Subsection 20A-4-304(3).

(d) The canvassers' report prepared as provided in this Subsection (4) is the official result of the race or proposition that is the subject of the recount.

Amended by Chapter 92, 2013 General Session

20A-4-402. Election contests -- Grounds.

(1) The election or nomination of any person to any public office, and the declared result of the vote on any ballot proposition or bond proposition submitted to a vote of the people may be contested according to the procedures established in this part only:

(a) for malconduct, fraud, or corruption on the part of the judges of election at any polling place, or of any board of canvassers, or any judge or member of the board sufficient to change the result;

(b) when the person declared elected was not eligible for the office at the time of the election;

(c) when the person declared elected has:

(i) given or offered to any registered voter, judge, or canvasser of the election any bribe or reward in money, property, or anything of value for the purpose of influencing the election; or

(ii) committed any other offense against the elective franchise;

(d) when illegal votes have been received or legal votes have been rejected at the polls sufficient to change the result;

(e) for any error of any board of canvassers or judges of election in counting the votes or declaring the result of the election, if the error would change the result;

(f) when the election result would change because a sufficient number of ballots containing uncorrected errors or omissions have been received at the polls;

(g) when the candidate declared elected is ineligible to serve in the office to which the candidate was elected;

(h) when an election judge or clerk was a party to malconduct, fraud, or corruption sufficient to change the result of the election; and

(i) for any other cause that shows that another person was legally elected.

(2) Any irregularity or improper conduct by the election judges does not void an election unless the irregularity or improper conduct would result in the election of a person who did not receive the highest number of legal votes.

(3) When any election held for any office is contested because of any irregularity or improper conduct on the part of a judge of any voting precinct, a court, upon proof of the irregularity or improper conduct may not set aside the election unless the irregularity or improper conduct would change the result for that office.

Amended by Chapter 105, 2005 General Session

20A-4-403. Election contest -- Petition and response.

(1) (a) In contesting the results of all elections, except for primary elections and bond elections, a registered voter shall contest the right of any person declared elected to any office by filing a verified written complaint with the district court of the county in which he resides within 40 days after the canvass.

(b) The complaint shall include:

(i) the name of the party contesting the election;
(ii) a statement that the party is a registered voter in the jurisdiction in which the election was held;

(iii) the name of the person whose right to the office is contested;

(iv) the office to which that person was ostensibly elected;

(v) one or more of the grounds for an election contest specified in Section 20A-4-402;

(vi) the person who was purportedly elected to the office as respondent; and

(vii) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all persons who allegedly cast illegal votes or whose legal vote was rejected.

(c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:

(i) illegal votes were given in one or more specified voting precincts to a person whose election is contested, which, if taken from him, would reduce the number of his legal votes below the number of legal votes given to some other person for the same office; or

(ii) that legal votes for another person were rejected, which, if counted, would raise the number of legal votes for that person above the number of legal votes cast for the person whose election is contested.

(d) (i) The court may not take or receive evidence of any of the votes described in Subsection (1)(c) unless the party contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which he intends to prove at trial.

(ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.

(2) (a) In contesting the results of a primary election, when contesting the petition nominating an independent candidate, or when challenging any person, election officer, election official, board, or convention for failing to nominate a person, a registered voter shall contest the right of any person declared nominated to any office by filing a verified written complaint within 10 days after the date of the canvass for the primary election, after the date of filing of the petition, or after the date of the convention, respectively, with:

(i) the district court of the county in which he resides if he is contesting a nomination made only by voters from that county; or

(ii) the Utah Supreme Court, if he is contesting a nomination made by voters in more than one county.

(b) The complaint shall include:

(i) the name of the party contesting the nomination;

(ii) a statement that the contesting party is a registered voter in the jurisdiction in which the election was held;

(iii) the name of the person whose right to nomination is contested or the name of the person who failed to have their name placed in nomination;

(iv) the office to which that person was nominated or should have been nominated;

(v) one or more of the grounds for an election contest specified in Subsection (1);

(vi) the person who was purportedly nominated to the office as respondent; and

(vii) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all persons who allegedly cast illegal votes or whose legal vote was rejected.

(c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:

(i) illegal votes were given to a person whose election is contested, which, if taken from him, would reduce the number of his legal votes below the number of legal votes given to some other person for the same office; or

(ii) legal votes for another person were rejected, which, if counted, would raise the number of legal votes for that person above the number of legal votes cast for the person whose election is contested.

(d) (i) The court may not take or receive evidence of any the votes described in Subsection (2)(c), unless the party contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which he intends to prove at trial.

(ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.

(3) (a) In contesting the results of a bond election, a registered voter shall contest the validity of the declared results by filing a verified written complaint with the district court of the county in which he resides within 40 days after the date of the official finding entered under Section 11-14-207.

(b) The complaint shall include:

(i) the name of the party contesting the election;

(ii) a statement that the party is a registered voter in the jurisdiction in which the election was held;

(iii) the bond proposition that is the subject of the contest;

(iv) one or more of the grounds for an election contest specified in Section 20A-4-402; and

(v) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all persons who allegedly cast illegal votes or whose legal vote was rejected.

(c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:

(i) illegal votes were counted in one or more specified voting precincts which, if taken out of the count, would change the declared result of the vote on the proposition; or

(ii) legal votes were rejected in one or more specified voting precincts, which, if

counted, would change the declared result of the vote on the proposition.

(d) (i) The court may not take or receive evidence of any of the votes described in Subsection (3)(c) unless the party contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which he intends to prove at trial.

(ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.

(4) The court may not reject any statement of the grounds of contest or dismiss the proceedings because of lack of form, if the grounds of the contest are alleged with such certainty as will advise the defendant of the particular proceeding or cause for which the election is contested.

(5) (a) The petitioner shall serve a copy of the petition on the respondent.

(b) (i) If the petitioner cannot obtain personal service of the petition on the respondent, the petitioner may serve the respondent by leaving a copy of the petition with the clerk of the court with which the petition was filed.

(ii) The clerk shall make diligent inquiry and attempt to inform the respondent that he has five days to answer the complaint.

(c) The respondent shall answer the petition within five days after the service.

(d) If the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the defendant shall set forth in the answer the name and address of all persons whom the defendant believes were properly or improperly admitted or denied the vote.

(e) If the answer contains a counterclaim, the petitioner shall file a reply within 10 days after service of the counterclaim.

(6) (a) The provisions of this Subsection (6) provide additional requirements that apply to municipal election contests that are in addition to the other requirements of this section governing election contest.

(b) Municipal election contests shall be filed, tried, and determined in the district court of the county in which the municipality is located.

(c) (i) As a condition precedent to filing a municipal election contest, the petitioner shall file a written affidavit of intention to contest the election with the clerk of the court within seven days after the votes are canvassed.

(ii) The affidavit shall include:

(A) the petitioner's name;

(B) the fact that the petitioner is a qualified voter of the municipality;

(C) the respondent's name;

(D) the elective office contested;

(E) the time of election; and

(F) the grounds for the contest.

(d) (i) Before the district court takes jurisdiction of a municipal election contest, the petitioner shall file a bond with the clerk of the court with the sureties required by the court.

(ii) The bond shall name the respondent as obligee and be conditioned for the payment of all costs incurred by the respondent if the respondent prevails.

Amended by Chapter 238, 2007 General Session

20A-4-404. Election contest -- Calendaring and disposition.

- (1) (a) Upon receipt of the petition, the clerk shall inform the chief judge of the court having jurisdiction.
- (b) The chief judge shall issue an order:
 - (i) assigning the case to a district court judge, if the district court has jurisdiction; and
 - (ii) setting a date and time, not less than 10 nor more than 30 days from the date the petition was filed to hear and determine the contest.
- (c) The clerk shall:
 - (i) issue a subpoena for the person whose right to the office is contested to appear at the time and place specified in the order; and
 - (ii) cause the subpoena to be served.
- (2) The court shall meet at the time and place designated to determine the contest.
- (3) (a) If it is necessary for the court to inspect the ballots of any voting precinct in order to determine any election contest the judge may order the proper officer to produce them.
- (b) The judge shall:
 - (i) open and inspect the ballots in open court in the presence of the parties or their attorneys; and
 - (ii) immediately after the inspection, seal them in an envelope and return them, by mail or otherwise, to their legal custodian.
- (4) (a) If the petition, response, or counterclaim alleges an error in the canvass sufficient to change the result, the court may order and conduct a recount of the ballots or vote tabulation.
- (b) The court may also require the production of any documents, records, and other evidence necessary to enable it to determine the legality or illegality of any vote cast or counted.
- (c) (i) After all the evidence in the contest is submitted, the court shall enter its judgment, either confirming the election result or annulling and setting aside the election.
- (ii) If the court determines that a person other than the one declared elected received the highest number of legal votes, the court shall declare that person elected.

Enacted by Chapter 1, 1993 General Session

20A-4-405. Election contests -- Costs.

- (1) The court shall enter judgment for costs against the party contesting the election if:
 - (a) the proceedings are dismissed for:
 - (i) insufficiency of pleading or proof; or
 - (ii) want of prosecution; or
 - (b) the election is confirmed by the court.
- (2) The court shall enter judgment for costs against the party whose election

was contested if the election is annulled and set aside.

(3) (a) Each party is liable for the costs of the officers and witnesses that appeared on his behalf.

(b) The party may pay, and the officers and witnesses may collect, those costs in the same manner as similar costs are paid and collected in other cases.

Enacted by Chapter 1, 1993 General Session

20A-4-406. Election contests -- Appeal.

(1) (a) Either party may appeal the district court's judgment to the Supreme Court as in other cases of appeal from the district court.

(b) When an appeal is taken, the district court may not stay execution or proceedings, except execution for costs.

(2) Whenever an election is annulled or set aside by the judgment of a court and no appeal is taken within 10 days, the certificate of election, if any has been issued, is void, and the office is vacant.

Enacted by Chapter 1, 1993 General Session

20A-4-501. Election returns -- Forgery.

(1) It is unlawful for any person to:

(a) forge or counterfeit any election returns from any election purporting to have been held at any voting precinct where no election was in fact held;

(b) willfully substitute any forged or counterfeit election returns in the place of the true return for a voting precinct where any election was actually held; or

(c) commit or cause any fraud in any election in any manner.

(2) A violation of this section is a third degree felony.

Amended by Chapter 253, 2013 General Session

20A-4-502. Altering vote count or returns.

(1) It is unlawful for any person to:

(a) willfully add to or subtract from the votes actually cast at an election in any election returns; or

(b) alter any election returns.

(2) Any person who violates this section is guilty of a third degree felony.

Amended by Chapter 253, 2013 General Session

20A-4-504. Interfering with count.

(1) It is unlawful for any person to intentionally ascertain, or attempt to ascertain, the progress or state of the count before the ballot count is completed in the voting precinct, or before 8 p.m., whichever is later.

(2) Any person who violates this section is guilty of a third degree felony.

Enacted by Chapter 1, 1993 General Session

20A-4-505. Communicating about the count.

(1) It is unlawful for any poll worker to communicate in any manner, directly or indirectly, by word or sign, the progress of the count, the result so far, or any other information about the count.

(2) Any person who violates this section is guilty of a third degree felony.

Amended by Chapter 75, 2007 General Session